



TENNESSEE REGISTRY OF ELECTION FINANCE

Contribution Audit of Guy Derryberry Third Quarter 2006



Audit Team:
Jay Moeck, CPA, CFE
Audit Manager

Tabitha Peden, CFE
Senior Auditor

STATE OF TENNESSEE



REGISTRY OF ELECTION FINANCE
404 JAMES ROBERTSON PARKWAY, SUITE 1614
NASHVILLE, TN 37243-1360
(615) 741-7959
Fax: (615) 532-8905

BOARD MEMBERS
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AUDIT MANAGER
Jay Moeck, CPA, CFE

August 1, 2007

Members of the Registry of Election Finance
404 James Robertson Parkway, Suite 1614
Nashville, TN 37243-1360

Ladies and Gentlemen:

Transmitted herewith are the agreed upon procedures for the un-itemized contribution audit of Guy Derryberry's Third Quarter Financial Disclosure Statement for his 2006 election campaign for the House of Representatives. This audit was conducted pursuant to the requirements of Section 2-10, *Tennessee Code Annotated*, the Comprehensive Governmental Ethics Reform Act of 2006.

The procedures were developed to aid the Registry of Election Finance in its responsibilities to monitor and enforce Tennessee's Campaign Financial Disclosure Law and Campaign Contribution Limits Law. The candidate is responsible for complying with campaign finance laws and the accuracy of campaign financial disclosures. The sufficiency of these procedures is solely the responsibility of the Registry's internal audit group. Consequently, we make no representation regarding the sufficiency of the agreed upon procedures described in the report for any other purpose than aiding the Registry.

This report is intended for the information and use of the Members of the Tennessee Registry of Election Finance as outlined; and is not intended to be and should not be used by anyone other than the Registry without understanding the objectives, purposes, and underlying assumptions. This report, however, is a matter of public record.

Sincerely,

Jay Moeck, CPA, CFE
Audit Manager

STATE OF TENNESSEE
REGISTRY OF ELECTION FINANCE

Audit Highlights
Guy Derryberry
2006 Third Quarter Contribution Audit

AUDIT OBJECTIVES

The objectives of the audit were to determine Guy Derryberry's compliance with certain provisions of campaign finance disclosure laws and regulations, compliance with certain provisions of campaign contribution limits laws and regulations, accuracy and completeness of the un-itemized contribution disclosures on his 2006 Third Quarter Campaign Financial Disclosure Statement, and to recommend appropriate actions to correct any deficiencies.

FINDINGS

1. Guy Derryberry received one contribution in violation of campaign limits laws. Mr. Derryberry reported \$50 in excess of the primary contribution limits for one contributor, which violated *Tennessee Code Annotated* (T.C.A.) § 2-10-302.

2. Mr. Derryberry failed to itemize all contributions from individuals who contributed more than \$100 during the reporting period. Mr. Derryberry reported two individuals' contributions as un-itemized contributions even though the two individuals' total contributions were greater than \$100 for the 2006 third quarter reporting period. This is a violation of T.C.A. § 2-10-107(a)(2)(A)(i).

3. Mr. Derryberry did not report all contributions received during the third quarter. Mr. Derryberry failed to report \$100 in contributions that he received during the 2006 third quarter reporting period, which violated T.C.A. § 2-10-105(a).

4. Mr. Derryberry did not properly maintain his campaign records to verify his compliance with campaign finance statutes. Mr. Derryberry's contribution records only indicated deposits in total by cash and check without specifying the contributors' names or contribution amounts. Therefore, we could not determine if Mr. Derryberry complied with campaign finance statutes for \$790 or approximately 11% of his reported un-itemized contributions.

5. Mr. Derryberry did not follow the Registry rules for bookkeeping. Mr. Derryberry did not follow the Registry rules for bookkeeping procedures. Although not required by statute, the Registry has developed guidance for candidates for maintaining their records of campaign activities. Mr. Derryberry's adherence with the bookkeeping rules may have averted the other findings reported.

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INTRODUCTION

AUDIT AUTHORITY

In February 2006, the Tennessee Legislators and Governor Phil Bredesen enacted the “Comprehensive Governmental Ethics Reform Act of 2006,” which amended Tennessee’s campaign finance disclosure laws and duties of the Registry of Election Finance. The legislation established the audits of campaign disclosure reports. *Tennessee Code Annotated* (T.C.A.) §§ 2-10-206 and 2-10-212 authorize the Registry of Election Finance (Registry) to conduct audits of campaign finance disclosure statements filed with the Registry. The audit was initiated based on T.C.A. § 2-10-212(i), which requires the Registry to audit any candidate that files a disclosure statement with more than 30% of the candidate’s contributions reported as un-itemized contributions and the un-itemized contributions were greater than \$5,000.

AUDIT PURPOSE

The Registry’s contribution audits were developed to assist and encourage candidate compliance with campaign disclosure laws. The audit process assists the Registry in providing timely and accurate campaign information to government officials and the general public. The Registry’s audits provide a tool to the Registry to evaluate the effectiveness of the campaign financial disclosure process. In addition, the audits assist the Registry with the enforcement of campaign finance limit laws and campaign finance disclosure laws. Finally, the audit reports are intended to assist the candidate and State of Tennessee in promoting governmental accountability and integrity.

AUDIT SCOPE

Tennessee’s campaign financial disclosure law requires candidates to make biannual financial disclosures as of the date of the first contribution or first expenditure, whichever occurs earlier. The biannual report periods are from January 16 to June 30 and July 1 to January 15 of each year. During an election year, the disclosures expand to quarterly reports, pre-primary reports, and pre-general reports. This audit relates to disclosures made subsequent to the passage and approval of the Comprehensive Governmental Ethics Reform Act of 2006. The act was approved on February 15, 2006. In addition, the audit relates to only disclosure reports that meet the requirements listed in T.C.A. § 2-10-212(i). Therefore, the audit reviewed only Guy Derrberry’s disclosures on his 2006 third quarter report.

CAMPAIGN OVERVIEW

CAMPAIGN ORGANIZATION

Guy Derryberry was a candidate in the November 7, 2006 general election for the House of Representatives for district 64. Mr. Derryberry filed an Appointment of Political Treasurer Statement with the Registry on April 12, 2006 appointing Gloria V. Peach as political treasurer.

The candidate's first financial disclosure for the 2006 campaign was the 2006 second quarter report filed on July 11, 2006. As of June 30, 2007, the candidate's most current financial disclosure report was the 2006 fourth quarter amended report, which he filed on January 23, 2007. The 2006 fourth quarter report amended on January 23, 2007, disclosed \$2,071.57 in cash on hand, \$1,622.83 in outstanding obligations, and \$27,000 in outstanding loans. The candidate has not completed his 2006 election campaign reporting requirements. The candidate's next report will be due on July 16, 2007 and will cover the period of January 16, 2007 to June 30, 2007.

OVERVIEW OF FINANCIAL ACTIVITIES

The following financial amounts are a summary of the financial disclosures made by the candidate. The summarized amounts are from the following disclosure reports: 2006 second quarter, 2006 pre-primary, 2006 third quarter, 2006 pre-general, and 2006 fourth quarter reports. As noted in the audit scope, we only audited the un-itemized contributions from disclosures for the 2006 third quarter. The amounts displayed are for informational purposes only.

<u>Summary of Financial Activity</u>		
<u>(Un-audited Amounts)</u>		
Cash on hand at April 1, 2006		\$963.55 1
Receipts		
Itemized	11,091.34	
Un-itemized	36,750.00	
Interest	0.00	
Loans receipted	7,000.00	
Total receipts		<u>\$54,841.34</u>
Disbursements		
Itemized	358.42	
Un-itemized	53,374.00	
Loans principal payments	0.00	
Total disbursements		<u>\$53,733.32</u>
Cash on hand at January 15, 2007		<u>\$2,071.57</u>
Loans outstanding at January 15, 2007		\$27,000.00 2
Obligations at January 15, 2007		\$1,622.83
Total in-kind contributions received		\$4,350.00

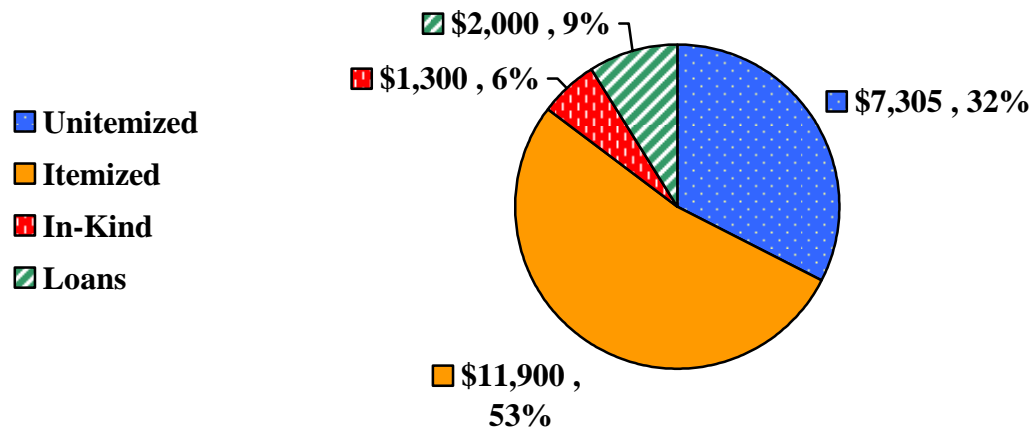
1 The cash balance at 4/1/2006 is funds transferred from the candidate's 2004 campaign.

2 Included in the loans outstanding is \$20,000 of loans transferred from the candidate's 2004 campaign.

CHARTS

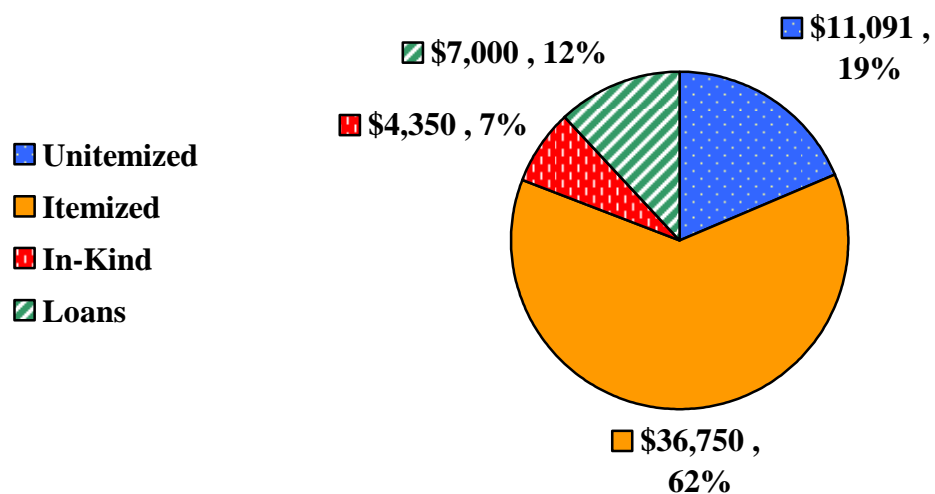
2006 THIRD QUARTER CONTRIBUTIONS

The following chart shows the contributions reported by the candidate in the 2006 third quarter report.



2006 ELECTION CAMPAIGN CONTRIBUTIONS

The following chart shows the contributions reported by the candidate for his 2006 election campaign.



OBJECTIVES, METHODOLOGIES, CONCLUSIONS

UN-ITEMIZED CONTRIBUTIONS AND RECEIPTS

Audit Objectives:

The objectives of our audit of un-itemized contributions were to determine whether:

- campaign contributions from individuals and Political Action Committees (PAC) were within limits;
- all contributions were from non-prohibited sources;
- all contributions received were reported, reported in the proper period, reported in compliance with T.C.A. §§ 2-10-105 and 2-10-107, and reported in compliance with the Registry's rules; and
- all contributions were supported by bank statements and deposit slips.

Audit Methodology:

The Registry obtained Guy Derryberry's 2006 Third Quarter Campaign Financial Disclosure Statement amended on January 22, 2007 to verify that the un-itemized contributions were greater than \$5,000 and 30% of the total contributions reported. We requested Mr. Derryberry to provide supporting documentation for the un-itemized contributions of \$7,305.00 that he reported on his third quarter report. Mr. Derryberry provided auditors with his campaign records for the third quarter report, which included his bank statements, bank validated deposit receipts, a contributor list from a candidate fundraising event, and contributor registration forms from a candidate fund raising event. The following steps were performed on Mr. Derryberry's campaign documentation:

- The documentation was reviewed to determine if the candidate's un-itemized contributions received from July 25, 2006 thru September 30, 2006 totaled \$7,305.00.
- A list of un-itemized contributions was prepared and compared to the candidate's bank statements to determine if the candidate deposited all funds into a campaign bank account and properly recorded the funds.
- A list of un-itemized contributions by contributor was prepared and compared to the candidate's itemized contributions reported during the election to determine if campaign contributions from individuals and PACs complied with campaign contribution limits, T.C.A. § 2-10-301, et seq.
- An un-itemized contributions list was reviewed to determine if all contributions were reported, all receipts received were reported, all contributions were reported in the proper

period, all contributions were reported in compliance with T.C.A. §§ 2-10-105 and 2-10-107, and all contributions were reported in compliance with the Registry's rules.

Audit Conclusion:

Mr. Derryberry's 2006 Third Quarter Campaign Financial Disclosure Statement amended on January 22, 2007 reported un-itemized contributions greater than \$5,000 and 30% of the total contributions and thus subject to audit. The candidate's campaign records indicated that the un-itemized contributions did not total \$7,305.00 from July 25, 2006 to September 30, 2006. In addition, a review of the contributions indicated the candidate violated campaign limits laws for the primary election. In addition, a review of the contributions indicated that the Mr. Derryberry violated campaign disclosure laws. Finally, Mr. Derryberry's campaign records were not sufficient to determine if all un-itemized contributions were reported, all un-itemized contributions complied with campaign contribution limits, and all un-itemized contributions were reported in compliance with campaign finance disclosure laws and Registry rules. The details of the violations and deficiencies in the campaign records are detailed in the findings below.

FINDINGS

1. Guy Derryberry received one contribution in violation of campaign limits laws.

One individual's contributions for the primary election exceeded the \$1,000 campaign finance limit in violation of the T.C.A. § 2-10-302(a) which states, "No person shall make contributions to any candidate with the respect to any election which, in the aggregate, exceed:...(2) For any other state or local public office, one thousand dollars (\$1,000)." The candidate's campaign records indicated that one individual contributed \$1,050 for the 2006 primary election.

2. Mr. Derryberry failed to itemize all contributions from individuals who contributed more than \$100 during the reporting period.

Mr. Derryberry reported two individuals' contributions as un-itemized contributions even though the two individuals' total contributions were greater than \$100 for the 2006 third quarter reporting period. Mr. Derryberry's campaign records indicated that one individual made two \$100 contributions (\$200 total) during the reporting period; however, he did not report these funds as itemized contributions. The campaign records also indicated that one individual contributed itemized in-kind contributions valued at \$500 and a \$20 monetary contribution that he reported as an un-itemized contribution. These are violations of T.C.A. § 2-10-107 (a)(2)(A)(i), which requires the candidate to itemize contributions greater than \$100 during a reporting period. The candidate is required to report the name, address, occupation, employer, date of receipt, and amount of all itemized contributions on his disclosure statements. Since the candidate received both the in-kind and monetary contributions in the same reporting period and the contributions exceeded \$100 in total, Mr. Derryberry should have itemized both contributions.

3. Mr. Derryberry did not report all contributions received during the third quarter.

Mr. Derryberry failed to report contributions totaling \$100 that he received during the 2006 third quarter reporting period, which violated T.C.A. § 2-10-105(a). Mr. Derryberry's campaign records indicated un-itemized contributions totaling \$7,405.00 from July 25, 2006 to September 30, 2006; however, he only reported \$7,305.00, a difference of \$100. T.C.A. § 2-10-105(a) states that candidates shall file a statement of all contributions received. The \$100 difference does not include the differences associated to the violation noted in finding 2 above.

4. Mr. Derryberry did not properly maintain his campaign records to verify his compliance with campaign finance statutes.

Mr. Derryberry did not maintain sufficient un-itemized contribution campaign records to verify his compliance with all campaign finance statutes. Mr. Derryberry's campaign records for the 2006 third quarter reporting period indicated that several individuals contributed a total of \$790; however, Mr. Derryberry could not attribute a specific amount to a specific individual. Therefore, we could not determine if Mr. Derryberry complied with the following campaign finance statutes for \$790 of un-itemized contributions:

- T.C.A. § 2-10-107(a)(2)(A)(i) requires contributions of more than \$100 from one source received during a reporting period to be itemized. The itemized information for each contributor must include name, address, occupation, employer, date of receipt, and amount of contribution.
- T.C.A. § 2-10-302 establishes limits on contributions to candidates from a person or multicandidate committee (PAC).
- T.C.A. § 2-10-311(a) limits cash contributions to \$50 per election for each contributor.

5. Mr. Derryberry did not follow the Registry rules for bookkeeping.

Mr. Derryberry did not follow the Registry rules for bookkeeping procedures. Although not required by statute, the Registry has developed guidance for candidates for maintaining their records of campaign activities. This guidance is not the sole method to maintain records and does not include all variations of campaign activities; however, if Mr. Derryberry had followed the guidance, he may have avoided the findings above. Mr. Derryberry did not implement the following Registry rules, which resulted in inadequate campaign records:

- Registry Rule 0530-1-3-.05 and 0530-1-1-.02(6) states that a candidate through his/her record-keeping system must be able to determine the aggregate amount of contributions received per election from each contributor. The Registry recommends that candidates and their committees maintain photocopies of all contribution checks received or in the alternative, a journal or listing of contributions.
- Registry Rule 0530-1-1-.02(8) states that a candidate should perform bank reconciliations that reconcile the bank account and the campaign records to the financial disclosure statements.

RECOMMENDATION TO CANDIDATE

Mr. Derryberry should review his designation of campaign contributions for the primary and general elections and amend the applicable disclosures to reflect the proper election. Mr. Derryberry should amend his 2006 Third Quarter Campaign Financial Disclosure Statement to ensure that he reported all individuals that contributed more than \$100 during the reporting period as itemized and to ensure that he reported all contributions received. Mr. Derryberry should ensure the campaign adopts and maintains a record-keeping system to distinguish between contributions made for a primary election and those made for a general election, and to determine the aggregate amount of contributions received per election from each contributor. Mr. Derryberry should consider the Registry's recommendation that candidates and their committees maintain copies of all contributions received (copies of campaign contribution checks) or in the alternative, a journal or listing of contributions. Mr. Derryberry should ensure all contributions are deposited in the campaign account within 10 days of receipt. Mr. Derryberry should ensure the campaign bank account reconciles to the campaign disclosure reports.

RECOMMENDATION TO REGISTRY

We recommend the Members of the Registry consider the findings for possible further action. We recommend the Registry approve the audit performed as being sufficient and complete. Finally, we recommend the Registry post the audit report to the Registry's web site notwithstanding whether a significant penalty is assessed, as outlined in T.C.A. § 2-10-212(f). The report and related finding will assist current and future candidates in understanding the audit process, the purposes of Registry rules, and types of procedures needed to comply with campaign finance laws.

RESOLUTIONS

CANDIDATE'S CORRECTIVE ACTIONS TAKEN

After discussing the above findings with Mr. Derryberry, he chose to take corrective action on his reports prior to the Registry's approval of the audit. The candidate amended his 2006 Second Quarter Campaign Financial Disclosure Statement and his 2006 Third Quarter Campaign Financial Disclosure Statement on May 23, 2007. The corrective actions detailed below resulted in a new aggregate amount for un-itemized contributions of \$7,135.

Correction Action Finding 1:

On his amended his second quarter report, Mr. Derryberry reallocated \$500 of the individual's \$1,050 in contributions to the general election (originally allocated to the primary election). This reduced the individual's total contributions allocated to the primary election to \$550, which is less than the \$1,000 per election individual limit. Although not required, Mr. Derryberry also amended his third quarter report to itemize the additional \$50 cash contribution received from the same contributor.

Correction Action Finding 2:

On his amended third quarter report, Mr. Derryberry changed the two \$100 contributions from one contributor from an un-itemized contribution to an itemized contribution. In addition, Mr. Derryberry changed the \$20 monetary contribution received from the contributor who had also made an in-kind contribution from an un-itemized contribution to an itemized contribution.

Correction Action Finding 3

On his amended third quarter report, Mr. Derryberry added the \$100 of un-itemized contributions received during the third quarter period that he failed to disclose.

REGISTRY OF ELECTION FINANCE ACTIONS

The Members of the Registry of Election Finance reviewed the 2006 contribution audit of Guy Derryberry during the August 8, 2007 regular monthly meeting. The report contained five findings with recommendations for corrective actions. The Registry voted to approve the audit report and to issue a show cause notice for receiving contributions in excess of campaign contributions from one contributor and for failing to report \$100 in contributions for the reporting period. Subsequent actions by the Registry related to the show cause notice will appear in the subsequent board minutes.